

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) (<i>if applicable</i>)	
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

**SUPPORTING STATEMENT
SOUTHWEST REGION PERMIT FAMILY OF FORMS
OMB CONTROL NO. 0648-0204**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) established regional fishery management councils, including the Western Pacific and Pacific Councils, to develop fishery management plans (FMPs) for fisheries in the U.S. exclusive economic zone (EEZ). These plans, if approved by the Secretary of Commerce, are implemented by Federal regulations which are enforced by the National Marine Fisheries Service (NMFS) and the U.S. Coast Guard (USCG), in cooperation with State agencies to the extent possible. FMPs are intended to regulate fishing for stocks to prevent overfishing and achieve the optimum yield from the fisheries for the benefit of the U.S.

The Western Pacific Fishery Management Council (Western Pacific Council) has fisheries management jurisdiction in the EEZ around American Samoa, Guam, Hawaii, Northern Mariana Islands, and the U.S. Pacific island possessions. The Western Pacific Council has prepared FMPs for crustaceans, precious corals, pelagic, and bottomfish/seamount groundfish management unit species of the western Pacific. The Pacific Fishery Management Council (Pacific Council) has prepared a FMP for the coastal pelagic species fishery off the U.S. West Coast. Each of these FMPs contains a requirement that commercial fishery participants obtain permits for the fishery. This request deals with the information collection requirements for permits. The Southwest Region, NMFS, administers the permit program.

There are three types of permits: basic fishery permits (e.g., western Pacific general longline fishing and receiving permits, precious coral permits, pelagic troll/handline permits for the Pacific Remote Island Areas), limited entry permits for selected fisheries (e.g., Hawaii longline fishery, West Coast coastal pelagic fishery), and experimental fishing permits (EFPs). Basic permits are used in all fisheries where there are no specific limitations or eligibility criteria for entry to the fishery. Limited access/entry permits are used to prevent overcapitalization or address other problems in the fishery. EFPs are used to allow controlled and observed fishing with gear or techniques or within closed areas, that would otherwise be prohibited. Such fishing may demonstrate new ways to fish economically without adverse biological problems or with less take of protected resources such as sea turtles. In addition, there are provisions for transfers among owners of certain limited entry permits such as the Hawaii longline, Northwestern Hawaiian Islands (NWHI) crustaceans and coastal pelagic species limited entry permits and for appeals of actions on Hawaii longline limited entry permits, NWHI bottomfish/seamount groundfish limited access permits, and coastal pelagic species limited entry permits.

General permit requirements are found in 50 CFR 660.13 (Subpart B) with the specific requirements contained in relevant sections of 50 CFR 660 (Subparts C - F, and Subpart I) (see attached associated regulations). The types of permits for the individual fisheries are as follows:

Pacific Fishery	Permit Type	Form	Expiration	Permit Action
Pelagics (Longline only)	• Hawaii longline limited access permit (660.21)	W. Pacific fisheries form	March 3	renewal, transfer, appeal (no form)
	• Longline general permit (660.21)	W. Pacific fisheries form	March 3	initial, renewal
	• Receiving vessel permit (660.21)	W. Pacific fisheries form	March 3	initial, renewal
	• Longline fishing prohibited area exemption (660.27)	W. Pacific fisheries form & Supplemental Sheet	indefinite	none
Pelagic (Toll and Handline)	• Permit for U.S. Pacific remote island areas (660.21d)	W. Pacific fisheries form	One year	initial, renewal
Crustaceans	• Permit Area 1 (660.12, 660.14) Northwestern Hawaiian Islands limited access permit	W. Pacific fisheries form & Supplemental Sheet	indefinite	transfer
	• Permit Area 2 (660.12, 660.41) main Hawaiian Islands	W. Pacific fisheries form	indefinite	none
	• Permit Area 3 (660.12, 660.41) Guam & American Samoa	W. Pacific fisheries form	indefinite	none
Bottomfish/Seamount Groundfish	• Northwestern Hawaiian Islands Hoomalu Zone limited access permit (660.61)	W. Pacific fisheries form & Supplemental Sheet	December 31	initial, renewal waiver, appeal (no form)
	• Northwestern Hawaiian Islands Mau Zone limited access permit (660.61)	W. Pacific fisheries form & Supplemental Sheet	December 31	initial, renewal waiver, appeal (no form)
Precious Corals	• Established Bed (Makapuu Bed) (660.12, 660.81)	W. Pacific fisheries form	Two years	initial
	• Conditional Beds (Keahole Pt., Kaena Pt., Brooks Bank, 180 Fathom Bank) (660.12, 660.81)	W. Pacific fisheries form	One year	initial, re-issuance
	• Refugia (Wespac Bed) (660.12, 660.81)	W. Pacific fisheries form	One year	none
	• Exploratory Areas (Hawaii, American Samoa, Guam, U.S. Island Possessions) (660.12, 660.81)	W. Pacific fisheries form	One year	initial, re-issuance
Experimental Fishery	• Experimental Fishing Permit(660.17)	No Form	One Year	initial

Pacific Fishery	Permit Type	Form	Expiration	Permit Action
Coastal Pelagic Species	• Coastal Pelagic limited entry permit (660.512)	West Coast coastal pelagic species form		initial/renewal, transfer, additional info, appeal (no form)

A single application form is used for general fishery and limited access permits for the western Pacific region. This allows permit applicants to fill out only one form for any or all of the fisheries they qualify for. The application requires submission of a current USCG Certificate of Documentation (for documented vessels) or vessel registration certificate (for undocumented vessels) from the appropriate state or territorial agencies. These forms already provide basic vessel information. The application form also is used to document requests for and action on requests for transfers of Hawaii longline and NWHI Hawaiian Islands lobster. The Western Pacific fisheries application form includes space on the reverse side for supplemental information, as well as an information sheet for NWHI bottomfish Hoomalu and Mau Zone fisheries, when permit eligibility criteria require additional information to determine whether the individual qualifies for a permit.

Similarly, there is one general application form for the West Coast coastal pelagic species limited entry permit its renewal, transfer, replacement (if lost), and change of address. In some cases, permit applicants may have to submit additional records about their fishing activity or ownership of a vessel to supplement records obtained from the State of California.

There are typically provisions in the permit process for appeals of permit denials. Appellants may use whatever form they believe is appropriate in requesting NMFS to review their case.

The duration of permits varies by fishery. The term for Hawaii and western Pacific longline general fishery permits is five years, coincident with the 5-year permit duration of licenses issued by NMFS under the High Seas Fishing Compliance Act (HSFCA). The duration of the main Hawaiian Islands longline fishing prohibited area exemption is indefinite. This exemption was established to provide economic relief to the few Hawaii longline vessel owners who have a long history of dependence on longline fishing in the closed areas by allowing them to keep fishing in those areas. Currently, area closure exemptions are held by only two vessel owners, however, no new requests are anticipated in the future even though the provision remains in the regulations.

The term for NWHI lobster fishery permits is indefinite; this is a relatively small fishery (15 permits but only five or six active vessels) and it is easy to monitor without annual permit renewals. At present, the crustacean fisheries in the main Hawaiian Islands (Permit Area 2) and American Samoa/Guam (Permit Area 3) are non-active and anticipated to remain as such during the next three years.

The term of the NWHI Hoomalu and Mau Zone bottomfish limited access permits is one year. Both bottomfish fisheries have annual performance standards for permit renewals, with a potential for new entry when a permit holder fails to meet the performance standard and thus fails to qualify for permit renewal. Therefore, it is necessary to have very up-to-date records of permit holders on an annual basis. Occasionally, a permit holder requests a waiver from the annual landing requirement for permit renewal as he or she was unable to fish for reasons beyond his/her control (e.g., vessel breakdown, captain incapacitation, etc.). This is covered by this collection which involves submission of documentation, such as medical reports and vessel repair workorders from the permit holder demonstrating the event that prevented the permit holder from meeting the landing requirement.

Western Pacific precious coral permits for the conditional and exploratory coral beds are valid for one year; permits for the one established bed at Makapuu Point, is valid for two years. For 20 years, the precious coral fishery has been dormant; however, recently with new technology, i.e., highly maneuverable, deep-diving manned submersibles, there has been renewed interest in the precious coral resources around the Hawaiian Islands. Although only two participants are expected to engage in this cost-prohibitive fishery, many of the previously unknown Hawaiian precious coral beds will be tapped. Since the regulations do not allow for more than one precious coral permit to be valid for any one vessel at any one time, it is anticipated that permits will be surrendered and re-issued to the two permit holders as they search and harvest corals from bed to bed. Precious coral beds not expected to have any activity is the Wespac Bed, NWHI, which is a refugia and exploratory beds in American Samoa, Guam, and U.S. Pacific Island possessions of which very little is known at this time.

Coastal pelagic species limited entry permits are valid for a two year term. In this fishery, once initial permits have been issued, there will be only a few permit actions per year in following years for permit transfers (in the first year only) and renewals every second year. It is noted that an estimated 80 individual permit holders will be involved in multiple collections.

Permits and the information obtained through permit applications are essential ingredients in the management of these fisheries. They serve to identify actual or potential participants in the various fisheries. These data are needed to help measure the impacts of management controls on the participants in the fisheries. Permits are also effective tools in the enforcement of other fishery regulations. The threat of permit sanctions that would exclude a vessel from the fishery may be more effective than fines for violations of specific fishery regulations. Further, transferable limited access/entry permits may have a resale value and may be an asset that the government can seize in settlement of penalties for fishery violations.

Permits also provide an important link between the NMFS and fishermen via the permit application process. They make it easier for NMFS staff to contact fishermen and advise them of changes in the regulations or fishery conditions and give fishermen a direct point of contact in case they have questions or problems they want to bring to the attention of NMFS or a fishery management council.

Section 303 (b) (1) of the Magnuson-Stevens Act specifically authorizes the establishment of permit requirements. Almost all international, federal, state, and local fishery management authority uses permits as part of their management systems.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information requested on the NMFS Southwest Region federal fisheries permit application forms (and in some cases the supplemental information section) is used by the Southwest Region to determine whether the applicant meets the eligibility criteria for a permit for the fishery the person wants to enter. The data may also be used by several offices of NMFS, USCG, and state and territorial fishery-management, research, and enforcement agencies. As requested, summaries of permit application information are provided to the Western Pacific and Pacific Councils, member states, and interested parties to describe the characteristics of the fishery and estimate the nature and magnitude of the impacts of fishery regulations on different permit holders. Information on the vessel (as provided in documentation or registration certificates) is used to ascertain actual or potential participants in different sectors of each fishery and the amount of harvesting pressure they might exert on the fishery. This is important in determining the potential effectiveness and impacts of different management approaches and in assessing the capacity of the fleets in the fisheries.

The information collected is basic data on applicants such as name of owner and vessel operator, name of vessel and its official number, address, telephone number, and radio call sign. Required copies of the vessel's USCG documentation or state/territory registration certificates identify the legal ownership of the vessel being permitted. This latter requirement is essential for imposing permit sanctions, which are an effective fisheries enforcement tool. Since many vessels may be owned by partnerships or corporations, identification of ownership on the application form allows NMFS to sanction the company as well as the individual vessel operator for repeated violations of federal regulations. By having addresses, the NMFS can mail fishery information to vessel owners and operators; also permit renewal forms are sent to permit holders quickly and easily. Telephone numbers (business, home, facsimile) are used to assist NMFS in processing the application by allowing questions to be resolved more quickly than by correspondence.

Federal regulations (at 50 CFR 660.13(c)) authorize the collection of information (for western Pacific fisheries permit applications), such as security number. Social security number information is often the only reliable and constant informational unit that is available to NMFS enforcement agents for verifying the identity of the applicant(s) and for accurately retrieving confidential records related to the federal fisheries permits. Disclosure of the social security number of the applicant and vessel operator is mandatory in accordance with the Debt Collection Act (31 U.S.C. 7701), which requires that agencies obtain taxpayer identification numbers from person applying for Federal permits. The application form for the Coastal Pelagics Fishing Permit does not yet ask for the taxpayer identification number, but it is NOAA's intent to add such a question to the application.

Vessel owner or his or her agent's signature is required as legally binding actions which ensure eligibility to receive or transfer a permit under specific FMP regulations. False statements without the signature of the applicant would be much harder to prosecute.

Appeals of permit denials must be accompanied by documentation from the appellant to try to show why the permit should have been granted. This could include fishing logs, invoices from fish sales, State landings records, auction house receipts, financial transaction records relative to vessel ownership, or other records to demonstrate that the appellant had met the eligibility criteria for the particular fishery.

Experimental fishing permits (EFPS) are issued to applicants for fishing activities that would otherwise be prohibited under a FMP. A specific form for an EFP application is not required; however, an application for an EFP must provide a narrative description of the proposed activity to fully document the intended operations. This documentation allows NMFS, the Council and affected state/territorial fishery agency to evaluate the consequences of the experimental fishing activity and weigh the benefits and costs. EFPs allow innovation that may relieve excessive fishing effort or discover new methods that may resolve existing technological barriers to better management of the fishery and resource.

None of the questions asked in the permit process are asked in other permit programs with the exception that the NMFS HSFCFA permit requirements duplicate the Hawaii longline permit requirements to a limited degree. As noted above, the term of the Hawaii longline permit coincides with the HSFCFA permit period.

Implementing regulations of Amendment 8 to the Fishery Management Plan for the Northern Anchovy Fishery, renamed the Coastal Pelagic Species Fishery Management Plan, require limited entry permits be issued to all vessels fishing for coastal pelagic species, such as Pacific mackerel, jack mackerel, Pacific sardine, etc., south of 39 degrees N. latitude. Permits are obtained by filling out an application with information that allows NMFS to determine eligibility and status of each vessel. These permits are transferable for one year following implementation of the amendment. After one year, permits may be transferable to another vessel only if the permitted vessel is lost, stolen, or no longer able to participate in a federally managed commercial fishery. An application for transferability can only originate from the vessel owner. The coastal pelagic species permit collection is necessary for NMFS to administer the limited entry program for the fishery. Vessels authorized to fish in a restricted U.S. West Coast fishery need to be distinguished from unauthorized vessels with regard to assessing economic impacts and enforcement at sea.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior

to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The Southwest Region's Web site at <http://swr.ucsd.edu> is used to inform the public about the coastal pelagic species permit program and provides a means by which the application form for the coastal pelagic species limited entry permits may be obtained. The western Pacific fisheries permit application/information forms and information is also available via this Web site. At this time none of the permit applications for the western Pacific fisheries are currently submitted in electronic form although facsimile machines are used to a considerable extent.

EFP applications are relatively rare events and cannot be predicted in advance. There is no improved information technology that would simplify the application process.

4. Describe efforts to identify duplication.

One Federal program that provides some similar information is the vessel documentation program of the U.S. Coast Guard. The permit process calls for submission of a copy of the current certificate of Documentation for vessels to provide information about the vessels and their ownership. The permit application form no longer contains a requirement to provide duplicate information. In addition, in the Hawaii longline limited entry permit, there is some duplication with the HSFCA permit program; however, that program is national and is focused only on vessels fishing on the high seas, and the Hawaii limited entry permit term coincides with the HSFCA permit term. NMFS thoroughly reviewed the permit programs for the State of Hawaii, Territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands in deciding on the need for consolidating the Federal fisheries permit application form for the western Pacific region. In addition, the NMFS consulted with these agencies in the original development of the permit forms to determine that there was a minimum of duplication in respective information collections. Those agencies offered advice which was considered in developing the final specifications for the form itself as well as the information elements being recorded. However, in no instance was it possible to use State data to replace the federal permit form.

Fishery data collection programs are being implemented by the State of Hawaii, the Territories of American Samoa and Guam, and the Commonwealth of the Northern Mariana Islands. At present, permit requirements are minimal, except in Hawaii, and the agencies are making progress in developing programs to collect the type or level of detail of data that are needed by NMFS and the Council for monitoring fishery performance and conducting economic evaluations of the fishery. As indicated above and in item 9, the NMFS consulted with these non-Federal agencies to ensure that there be a minimum of duplication in our respective information collection requirements. NMFS also considered Coast Guard reporting requirements in designing the current form and setting information requirements on the form.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

All of the vessels in the western Pacific fisheries and the Pacific coastal pelagic fishery are small business entities of similar size and are affected comparably. No special measures are needed to accommodate different sized businesses. Only the minimum data to meet the permit objectives are requested from the permit applications.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If permit data are not available or are collected less frequently, NMFS will have difficulty monitoring the fishery, determining entry and exit patterns, and providing information needed to ensure full impact analysis from the regulatory programs. NMFS Enforcement will not be assured of being able to identify current permit holders for purposes of compliance monitoring and enforcement of the regulations. There will be less frequent contact with fishermen and our ability to contact permit holders to consult them prior to adopting new regulations and to advise them of regulatory changes will diminish. Our ability to document transfers of marketable permits under the current western Pacific limited access permit programs for pelagic longline and crustacean fisheries will be compromised.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection is consistent with the OMB Guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice (copy attached) solicited public comment on this collection. None were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts are involved in this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Under the Magnuson-Stevens Act and NOAA Administrative Order 216-100, information submitted in accordance with regulatory requirements under the Act are confidential. This includes confidential information submitted with a permit application. Personal and proprietary information is not released to the public.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature are asked.

12. Provide an estimate in hours of the burden of the collection of information.

Annual Burden: (Hours)			
PACIFIC PELAGIC FISHERY			
Hawaii Longline Limited Access Permit:	164 respondents x 0.50 hr/response	=	82.00
• Transfer	30 respondents x 0.50 hr/response	=	15.00
• Appeal	2 respondents x 2.00 hr/response	=	4.00
Longline General Permit:			
• Initial	10 respondents x 0.50 hr/response	=	5.00
• Renewal	80 respondents x 0.50 hr/response	=	40.00
Receiving Vessel Permit			
• Initial	1 respondent x 0.50 hr/response	=	0.50
• Renewal (March 2001)	1 respondent x 0.50 hr/response	=	0.50
Longline Fishing Prohibited Area Exemption	0 respondent x 2.00 hr/response	=	0.00
Pacific Remote Island Areas Pelagic Troll/handline Permit	5 respondents x 0.50 hr/response	=	2.5
CRUSTACEAN FISHERY			
Permit Area 1 (NWHI) Limited Access Permit	5 respondent x 0.50 hr/response	=	2.50
• Transfer			
Permit Area 2 (main Hawaiian Islands)	0 respondent x 0.50 hr/response	=	0.00
Permit Area 3 (American Samoa/Guam)	0 respondent x 0.50 hr/response	=	0.00

BOTTOMFISH & SEAMOUNT GROUND FISH FISHERIES

NWHI Hoomalu Zone Limited Access Permit

• Initial	1 respondent x 1.00 hr/response	=	1.00
• Renewal	7 respondents x 1.00 hr/response	=	7.00
• Waiver	1 respondent x 1.00 hr/response	=	1.00
• Appeal	1 respondent x 2.00 hr/response	=	2.00

NWHI Mau Zone Limited Access Permit

• Initial	1 respondent x 1.00 hr/response	=	1.00
• Renewal	10 respondents x 1.00 hr/response	=	10.00
• Waiver	1 respondent x 1.00 hr/response	=	1.00
• Appeal	1 respondent x 2.00 hr/response	=	2.00

PRECIOUS CORALS

Established Bed (Makapuu Pt.)

• Initial	2 respondents x 0.50 hr/response	=	1.00
• Re-issuance	2 respondents x 4 re-issuance/respondent x 0.50 hr/response	=	4.00

Conditional Beds

• Initial	2 respondents x 0.50 hr/response	=	1.00
• Re-issuance	2 respondents x 2 re-issuance/respondent x 0.50 hr/response	=	2.00

Refugia (Wespac Bed)

• Initial	0 respondent x 0.50 hr/response	=	0.00
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Exploratory Areas (Hawaii, American Samoa, Guam, U.S. Pacific Island Possessions)

• Initial	2 respondents x 0.50 hr/response	=	1.00
• Re-issuance	2 respondents x 3 re-issuance/respondent x 0.50 hr/response	=	3.00

EXPERIMENTAL FISHERY

• Initial	4 respondents x 2.00 hr/response	=	8.00
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COASTAL PELAGIC SPECIES

Coastal Pelagic Species Limited Entry Permit

• Initial/Renewal

Renewal of a permit is required every two years; therefore, initial issuance requires 35 hrs and renewal requires 35 hrs in year three.

$$70 \text{ respondents} \times 0.50 \text{ hr/response} = 35.00 \text{ hrs/year}$$

$$\text{Total burden over 3-year PRA approval period is } (35.00 \text{ hr} + 35.00 \text{ hr})/3 \text{ yr} = 23.33$$

$$\bullet \text{ Transfer} \quad 7 \text{ respondents} \times 0.50 \text{ hr/response} = 3.50$$

$$247.83 \quad 2 \text{ respondents} \times 1.00 \text{ hr/response} = 2.00$$

$$\bullet \text{ Appeal} \quad 11 \text{ respondents} \times 2.00 \text{ hr/response} = 22.00$$

$$\text{TOTALS} \quad 427 = 247.83$$

Note: an estimated 80 individual respondents will have multiple collection requirements

The estimated total annual cost to respondents is estimated at \$4,960 per year. This was derived by multiplying the number of hours of burden each year (248 hours) times an hourly cost rate of \$20, the estimated total cost for administrative staff support in an office setting.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

There is no "start-up" capital cost for complying with this requirement. The annual cost to the respondents for postage, faxes, copies, etc. related to this collection is estimated at \$185.

14. Provide estimates of annualized cost to the Federal government.

The estimated cost of this collection to the Federal government ranges from \$40 to \$73 per permit action for reviewing the application, determining its sufficiency, awarding the permit, processing the data, sending out permit renewal timing notices, and responding to inquiries. The total Federal cost is estimated at nearly \$6,200. This includes the costs of staff time in the permits administration staff in the Pacific Islands Area Office, Honolulu, Hawaii, (Western Pacific fisheries permits) and Southwest Region Office, Long Beach, California (Coastal Pelagic Species Limited Entry Permits), as well as time for review and processing of special permit issues by Division and Regional Office staff in Long Beach, CA. The calculation of costs is carried out in accordance with the procedures established by the NOAA Office of the Comptroller and the NOAA Finance Handbook ("Fees for Special Products or Services"). This involves detailed assessment of the time spent by persons at different levels in NMFS and the salary levels of each person who plays a role in the permit process. The cost calculation is

reviewed biennially. There are no special computer hardware or software expenses or programming requirements for this collection.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

No changes are requested.

16. For collections whose results will be published, outline the plans for tabulation and publication.

No publications based solely on permit data are planned at this time. However, the information contained in the permit application will be analyzed by the NMFS and Council to assess the status of the fisheries in the western Pacific region and the need for possible management changes to protect fish stocks, protected marine species and their habitats. These analyses will be included in annual stock assessment and fishery evaluation reports which are required under the various FMPs and in documentation to support any changes in management to address problems identified through the data collection program. The results may ultimately be published in scientific journals.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The expiration dates will be shown on the application forms.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

FEDERAL FISHERIES APPLICATION FORM
WESTERN PACIFIC REGION
U.S. DEPARTMENT OF COMMERCE

OMB NUMBER: 0648-0204 For Office Use:

Expires: GC _____

Issued _____

Transmit _____

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE

Mail or deliver this application to:

Pacific Islands Regional Office, NMFS
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
Tel: (808) 973-2935 Facsimile: 973-2982

f

(Check ☒ appropriate circle or circles for type of permit application)

1. LONGLINE - **Hawaii Limited Entry Permit** ☐
Non-Refundable Application Processing Fee (limited entry): \$48.00
General Longline Permit (Western Pacific) ☐
Receiving Vessel Permit ☐
Hawaii Closed Area Exemption ☐ (see reverse side of this page)
Pacific Remote Island Areas Troll & Handline ()
2. LOBSTER - **Northwestern Hawaiian Islands Limited Entry** ☐ (see reverse side of this page)
Main Hawaiian Islands ☐ **American Samoa, Guam** ☐
3. BOTTOMFISH - Hoomalu Zone: ☐ Mau Zone: ☐ \$65.00 (Submit supplementary info sheet)
4. PRECIOUS CORAL ☐ Permit Area: _____

VESSEL NAME: _____ **VESSEL OFFICIAL NUMBER:** _____

VESSEL OWNER: _____
First & Last Name Social Security Number

Privacy Act Statement: Federal Regulations (at 50 CFR Part 660) authorize collection of this information. This information is used to verify the identity of the applicant(s) and to accurately retrieve confidential records related to federal commercial fishery permits. Where the requested information is a Social Security Number, disclosure is mandatory in accordance with the Debt Collection Act (31 U.S.C. 7701).

NAME OF CORPORATION OR PARTNERSHIP THAT OWNS VESSEL: _____

BUSINESS ADDRESS: _____
Street City State Zip Code

HOME ADDRESS: _____
Street City State Zip Code

BUSINESS PHONE NO. _____ **HOME PHONE NO.** _____ **FAX:** _____

VESSEL CAPTAIN: _____
First & Last Name Social Security Number

CAPTAIN'S MAILING ADDRESS: If same as owner's business address, check here: ☐

Street City State Zip Code

APPLICANT: _____ **DATE:** _____
Print Name & Signature of Vessel Owner

PERMIT TRANSFEROR: _____ **DATE:** _____
Print Name & Signature of Permit Owner Transferring Permit

Permit Number of Transferred Permit: _____

Please submit a copy of the vessel's current U.S. Coast Guard Certificate of Documentation (documented vessel) or registration certificate from state/territorial agency (for undocumented vessel) with this application form.

Federal Fisheries Application Form - Western Pacific Region

SUPPLEMENTAL INFORMATION FOR:**** MAIN HAWAIIAN ISLANDS LONGLINE FISHING PROHIBITED AREA EXEMPTION******VESSEL:** _____**Basis for Exemption Eligibility (all boxes must be checked to be eligible):**

- ☐ Applicant currently holds a Hawaii longline limited entry permit
- ☐ Applicant was the owner or operator of a vessel that made landings of pelagic management unit species taken on longline gear prior to 1970 from waters now closed to longline fishing.
- ☐ Applicant was the owner or operator of a vessel that made landings of pelagic management unit species taken on longline gear in at least five (5) years since (and including) 1970 from waters now closed to longline fishing.
- ☐ Applicant was the owner or operator of a vessel that made at least 80 percent of its landings of longline-caught pelagic management unit species in any calendar year in waters now closed to longline fishing.

Document(s) demonstrating exemption eligibility is attached (check as many boxes as may apply):

☐ State of Hawaii Catch Reports ☐ Vessel fishing logs ☐ Auction receipts ☐

Signed affidavits

☐ Other (specify): _____**SIGNATURE OF APPLICANT:** _____******* NORTHWESTERN HAWAIIAN ISLANDS LOBSTER LIMITED ENTRY PERMIT *******

If the application is being submitted on behalf of a partnership or corporation, indicate the names of all the owners and their respective percentage of ownership in the partnership or corporation:

VESSEL: _____**Name of Shareholder:****Percent (%)
of Ownership****Business Address:**

SIGNATURE OF APPLICANT: _____PAPERWORK REDUCTION ACT INFORMATION

Public reporting burden for this collection is estimated as follows: 30 minutes for Hawaii longline limited access permit renewal/transfer, longline general permit initial issuance/renewal, and receiving vessel permit initial issuance/renewal; 120 minutes for main Hawaiian Islands longline fishing prohibited area exemption; 30 minutes for Northwestern Hawaiian Islands crustaceans limited access permit transfer, main Hawaiian Islands and American Samoa/Guam crustacean permits; 30 minutes for precious coral permit initial/re-issuance (established, conditional, refugia, exploratory areas); and 2 hours for all permit denial appeals. Each burden includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the is burden estimate any other aspects of this collection of information, including suggestions for reducing this burden, to Pacific Islands Area Office Administrator, Southwest Region, NMFS 2570 Dole Street, Honolulu, Hawaii 96822.

This information is being collected to ensure accurate and timely records about the persons licensed to participate in fisheries under Federal regulations in the Western Pacific Region. This will enable NMFS and the Western Pacific Fishery Management Council to (a) determine who would be affected by changes in management; (b) inform license holders of changes in fishery regulations; and (c) determine whether the objectives of the fishery program are being achieved by monitoring entry and exit patterns and other aspects of the fisheries. The information is used in analyzing and evaluating the potential impacts of regulatory changes on persons in the regulated fisheries as well as in related fisheries. Responses to the collection are required to obtain the benefit of a license for the fishery involved (ref. 50 CFR 660.13). Data provided concerning the vessel and/or business of the respondents are handled as confidential under the Magnuson-Stevens Fishery Conservation and Management Act (Sec. 402(b)). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

SUPPLEMENTARY INFORMATION FOR:

**Northwestern Hawaiian Islands Bottomfish Fishery:
Ho'omalulu Zone Limited Access Permit Application
Mau Zone Limited Access Permit Application**

VESSEL OWNER NAME: _____

VESSEL NAME: _____

HO'OMALU ZONE PERMIT APPLICATION:

Place a check (✓) mark alongside the criterion which provides the basis for your application.

1. New permit under historic participation or investment criteria

- _____ Owner of vessel which made at least one landing of NWHI bottomfish on or before 8/7/85; if permits are being requested for two or more vessels, documentation must show that each vessel made at least one landing of NWHI bottomfish each year in 1986 and 1987
- _____ Previously non-owner skipper of vessel which landed NWHI bottomfish on or before 8/7/85 and now owner (50% or greater interest) of vessel for bottomfish fishery
- _____ Incurred substantial expenditure, or received written commitment for loan, on or before 8/7/85, to obtain vessel for NWHI bottomfish fishery
- _____ Made an offer on or before 8/7/85 to purchase a vessel for use in the NWHI bottomfish fishery
- _____ Owner of vessel which qualified for Ho'omalulu Zone permit which was voluntarily surrendered by the owner to the Regional Administrator

2. New permit based on eligibility point system

- _____ Owner of 25% or greater interest in a vessel which may qualify on the basis of points earned through landings of bottomfish from the NWHI or main Hawaiian Islands

HO'OMALU ZONE OR MAU ZONE PERMIT APPLICATION

If this permit application is filed by a partnership or corporation, indicate the names of all the owners and their respective percentage of ownership of the partnership or corporation.

Name of Owner (Shareholder):

Percent (%)
of Ownership:

Signature of Vessel Owner or Designee: _____

Northwestern Hawaiian Islands Bottomfish Fishery: Ho'omalulu Zone Limited Access Permit and Mau Zone Limited Access Permit

PAPERWORK REDUCTION ACT INFORMATION

Public reporting burden for this collection is estimated as follows: 1 hour for initial issuance, renewal, and landing waiver requests for the Hoomalu and Mau Zones limited access permits; 2 hours for all permit denial appeals. Each burden includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Pacific Islands Area Office Administrator, Southwest Region, NMFS 2570 Dole Street, Honolulu, Hawaii 96822.

This information is being collected to ensure accurate and timely records about the persons licensed to participate in fisheries under Federal regulations in the Western Pacific Region. This will enable NMFS and the Western Pacific Fishery Management Council to (a) determine who would be affected by changes in management; (b) inform license holders of changes in fishery regulations; and (c) determine whether the objectives of the fishery program are being achieved by monitoring entry and exit patterns and other aspects of the fisheries. The information is used in analyzing and evaluating the potential impacts of regulatory changes on persons in the regulated fisheries as well as in related fisheries. Responses to the collection are required to obtain the benefit of a license for the fishery involved (ref. 50 CFR 660.13). Data provided concerning the vessel and/or business of the respondents are handled as confidential under the Magnuson-Stevens Fishery Conservation and Management Act (Sec. 402(b)). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE**

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

OMB CONTROL NO. 0648-0204 Expiration Date: 09/30/2003

COASTAL PELAGICS FISHING PERMIT

APPLICATION

**LIMITED ENTRY PERMIT/ PERMIT RENEWAL/PERMIT TRANSFER/CHANGE OF ADDRESS
OR REPLACEMENT OF LOST PERMIT**

ACTION DESIRED (Check appropriate box):

- ☐ **PERMIT APPLICATION** Complete applicant (1) Vessel information (2).
☐ **PERMIT TRANSFER** Complete applicant (1) Vessel information (2) New permit owner (3) New vessel information (4)
☐ **PERMIT CHANGE OF ADDRESS** Complete applicant (1) Vessel information (2). Put new address in new owner (3).
☐ **REPLACEMENT OF LOST PERMIT** Complete applicant (1) Vessel information (2).

(1) APPLICANT INFORMATION

Name of vessel owner		
Address		
Phone No.	Signature	Date

(2) VESSEL INFORMATION

Vessel Name		Gross Tonnage
Official Number (Coast Guard)	State Official Number	

This form is intended to be used for all transfers of limited entry permits to either a new vessel and/or a new owner. If two or more permits are being applied to a larger vessel, more than one form will be needed. Please refer to the implementing regulations at 50 CFR 660.514 for details.

COASTAL PELAGICS FISHING PERMIT

(3) NEW PERMIT OWNER

Name of vessel owner		
Address		
Phone No.	Signature	Date

(4) NEW VESSEL INFORMATION

Vessel Name		Gross Tonnage
Official Number (Coast Guard)	State Official Number	

Comparable capacity means gross tonnage as determined by the formula in 46 CFR 69.209(a) for a vessel not designed for sailing, plus 10 percent of the vessel's calculated gross tonnage.

Gross tonnage (GT) means gross tonnage as determined by the formula in 46 CFR 69.209(a) for a vessel not designed for sailing ($.67 \times \text{length} \times \text{breadth} \times \text{depth}/100$). A vessel's length, breadth, and depth are those specified on the vessel's certificate of documentation issued by the U.S. Coast Guard or state.

* * * * *

Warning: A false statement on this form is punishable by permit sanctions (revocation, suspension, or modification) under 15 CFR part 904, a civil penalty up to \$100,000 under 16 USC 1858, and as a federal crime under 18 USC 1001.

The purpose of this information collection is to limit the number of vessels fishing for coastal pelagic species according to the provisions of the Fishery Management Plan for Coastal Pelagic Species, which was approved by the Secretary of Commerce and implemented by federal regulations on December 15, 1999 (64 FR 69888). The information on this form is mandatory for owners of vessels who wish to participate in the limited entry fishery, and is required by 50 CFR 660.512. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Public reporting burden for this collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, California 90802-4213.

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168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N. lat., 171°45' W. long.; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Islands 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. Where the areas are not contiguous, parallel lines drawn tangent to and connecting those semi-circles of the 50-nm areas that lie between Nihoa Island and Necker Island, French Frigate Shoals and Gardner Pinnacles, Gardner Pinnacles and Maro Reef, and Lisianski Island and Pearl and Hermes Reef, shall delimit the remainder of the protected species zone.

Receiving vessel permit means a permit required by § 660.21(c) for a receiving vessel to transship or land Pacific pelagic management unit species taken by other vessels using longline gear.

Regional Director means the Director, Southwest Region, NMFS (see Table 1 of § 600.502 for address).

Seamount groundfish means the following species:

Common name	Scientific name
Armorhead	<i>Pentaceros richardsoni</i> .
Alfonsin	<i>Beryx splendens</i> .
Ratfish	<i>Hyperoglyphe japonica</i> .

Selective gear means any gear used for harvesting corals that can discriminate or differentiate between type, size, quality, or characteristics of living or dead corals.

Special Agent-In-Charge (SAC) means the Special Agent-In-Charge, NMFS, Office of Enforcement, Southwest Region, or a designee of the Special Agent-In-Charge.

Transship means offloading or otherwise transferring management unit species or products thereof to a receiving vessel.

Trap means a box-like device used for catching and holding lobsters.

U.S. harvested corals means coral caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan has been implemented under the Magnuson Act.

Vessel monitoring system unit (VMS unit) means the hardware and software owned by NMFS, installed on vessels by NMFS, and required by subpart C of

this part to track and transmit the positions of longline vessels or the hardware and software used by vessels to track and transmit the positions of vessels permitted under subpart D of this part to fish in Crustaceans Permit Area 1.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35449, July 1, 1997; 62 FR 47587, Sept. 10, 1997; 62 FR 43294, Aug. 13, 1997; 63 FR 20540, Apr. 27, 1998; 63 FR 29355, May 29, 1998; 64 FR 22811, Apr. 28, 1999; 64 FR 36822, July 8, 1999; 67 FR 4371, Jan. 30, 2002; 67 FR 11945, Mar. 18, 2002; 67 FR 34412, May 14, 2002]

EFFECTIVE DATE NOTE: At 67 FR 56501, Sept. 4, 2002, § 660.12, was amended by adding the definitions for “Pacific remote island areas (PRIA, or U.S. island possessions in the Pacific Ocean)”, “Pelagic handline fishing”, and “Pelagic troll fishing”, effective Oct. 4, 2002. For the convenience of the user the added text follows:

§ 660.12 Definitions.

* * * * *

Pacific remote island areas (PRIA, or U.S. island possessions in the Pacific Ocean) means Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, Wake Island, and Midway Atoll.

* * * * *

Pelagic handline fishing means fishing for pelagic management unit species from a stationary or drifting vessel using hook and line gear other than longline gear.

Pelagic troll fishing (trolling) means fishing for pelagic management unit species from a moving vessel using hook and line gear.

§ 660.13 Permits and fees.

(a) *Applicability.* The requirements for permits for specific Western Pacific fisheries are set forth in subparts C through F of this part.

(b) *Validity.* Each permit is valid for fishing only in the specific fishery management areas identified on the permit.

(c) *Application.* (1) A Southwest Region Federal Fisheries application form may be obtained from the Pacific Area Office to apply for a permit to operate in any of the fisheries regulated under subparts C, D, E, and F of this part. In no case shall the Pacific Area Office accept an application that is not

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on the Southwest Region Federal Fisheries application form. A completed application is one that contains all the necessary information, attachments, certifications, signatures, and fees required.

(2) A minimum of 15 days should be allowed for processing a permit application. If an incomplete or improperly completed application is filed, the applicant will be sent a notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Change in application information.* A minimum of 10 days should be given for the Pacific Area Office to record any change in information from the permit application submitted under paragraph (c) of this section. Failure to report such changes may result in invalidation of the permit.

(e) *Issuance.* After receiving a complete application, the FMD will issue a permit to an applicant who is eligible under § 660.21, § 660.41, § 660.61, or § 660.81, as appropriate.

(f) *Fees.* (1) PIAO will not charge a fee for a permit issued under subpart D or F of this part, or for a Ho'omalū Zone limited access permit issued under § 660.61.

(2) PIAO will charge a fee for each application for a Hawaii longline limited access permit (including permit transfers and permit renewals) and Mau Zone limited access permit (including permit renewals). The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of a Hawaii longline or Mau Zone limited access permit.

(g) *Expiration.* (1) Permits issued under subparts C, D, and F of this part are valid for the period specified on the permit unless transferred, revoked, suspended, or modified under 15 CFR part 904.

(2) Permits issued under subpart E of this part expire at 2400 local time on December 31.

(h) *Replacement.* Replacement permits may be issued, without charge, to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(i) *Transfer.* An application for a permit transfer under §§ 660.21(h), 660.41(e), or 660.61(e), or for registration of a permit for use with a replacement vessel under § 660.61(k), must be submitted to the PIAO as described in paragraph (c) of this section.

(j) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(k) *Display.* Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing management unit species shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

(l) *Sanctions.* Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.

(m) *Permit appeals.* Procedures for appeals of permit and administrative actions are specified in the relevant subparts of this part.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22812, Apr. 28, 1999]

§ 660.14 Reporting and recordkeeping.

(a) *Fishing record forms.* The operator of any fishing vessel subject to the requirements of §§ 660.21, 660.41, or 660.81 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on report forms provided by the Regional Director. All information specified on the forms must be recorded on the forms within 24 hours after the completion of each fishing day. The original logbook form for each day of the fishing trip must be submitted to the Regional Director within 72 hours of each landing of management unit species. Each form must be signed and dated by the fishing vessel operator.

(b) *Transshipment logbooks.* Any person subject to the requirements of

or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

§ 660.17 Experimental fishing.

(a) *General.* The Regional Director may authorize, for limited purposes, the direct or incidental harvest of management unit species that would otherwise be prohibited by this subpart and subparts C, D, E, and F of this part. No experimental fishing may be conducted unless authorized by an EFP issued by the Regional Director in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

(b) *Observers.* No experimental fishing for crustacean management unit species may be conducted unless an NMFS scientific observer is aboard the vessel.

(c) *Application.* An applicant for an EFP must submit to the Regional Director at least 60 days before the desired date of the EFP a written application including, but not limited to, the following information:

- (1) The date of the application.
- (2) The applicant's name, mailing address, and telephone number.
- (3) A statement of the purposes and goals of the experiment for which an EFP is needed, including a general description of the arrangements for disposition of all species harvested under the EFP.
- (4) A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals.
- (5) For each vessel to be covered by the EFP:
 - (i) Vessel name.
 - (ii) Name, address, and telephone number of owner and operator.
 - (iii) USCG documentation, state license, or registration number.
 - (iv) Home port.
 - (v) Length of vessel.
 - (vi) Net tonnage.
 - (vii) Gross tonnage.
- (6) A description of the species (directed and incidental) to be harvested under the EFP and the amount of such harvest necessary to conduct the experiment.
- (7) For each vessel covered by the EFP, the approximate times and places

fishing will take place, and the type, size, and amount of gear to be used.

(8) The signature of the applicant.

(d) *Incomplete applications.* The Regional Director may request from an applicant additional information necessary to make the determinations required under this section. An applicant will be notified of an incomplete application within 10 working days of receipt of the application. An incomplete application will not be considered until corrected in writing.

(e) *Issuance.* (1) If an application contains all of the required information, NMFS will publish a notice of receipt of the application in the FEDERAL REGISTER with a brief description of the proposal and will give interested persons an opportunity to comment. The Regional Director will also forward copies of the application to the Council, the USCG, and the fishery management agency of the affected state, accompanied by the following information:

- (i) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the directed and incidental species for which an EFP is being requested.
- (ii) A citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity.
- (iii) Biological information relevant to the proposal.

(2) At a Council meeting following receipt of a complete application, the Regional Director will consult with the Council and the Director of the affected state fishery management agency concerning the permit application. The applicant will be notified in advance of the meeting at which the application will be considered, and invited to appear in support of the application, if the applicant desires.

(3) Within 5 working days after the consultation in paragraph (e)(2) of this section, or as soon as practicable thereafter, NMFS will notify the applicant in writing of the decision to grant or deny the EFP and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

- (i) The applicant has failed to disclose material information required, or

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has made false statements as to any material fact, in connection with his or her application.

(ii) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect any species of fish in a significant way.

(iii) Issuance of the EFP would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose.

(iv) Activities to be conducted under the EFP would be inconsistent with the intent of this section or the management objectives of the FMP.

(v) The applicant has failed to demonstrate a valid justification for the permit.

(vi) The activity proposed under the EFP would create a significant enforcement problem.

(4) The decision to grant or deny an EFP is final and unappealable. If the permit is granted, NMFS will publish a notice in the FEDERAL REGISTER describing the experimental fishing to be conducted under the EFP. The Regional Director may attach terms and conditions to the EFP consistent with the purpose of the experiment including, but not limited to:

(i) The maximum amount of each species that can be harvested and landed during the term of the EFP, including trip limits, where appropriate.

(ii) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities under the EFP.

(iii) The times and places where experimental fishing may be conducted.

(iv) The type, size, and amount of gear which may be used by each vessel operated under the EFP.

(v) The condition that observers be carried aboard vessels operating under an EFP.

(vi) Data reporting requirements.

(vii) Such other conditions as may be necessary to assure compliance with the purposes of the EFP consistent with the objectives of the FMP.

(f) *Duration.* Unless otherwise specified in the EFP or a superseding notice or regulation, an EFP is effective for no longer than 1 year, unless revoked, suspended, or modified. EFPs may be

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renewed following the application procedures in this section.

(g) *Alteration.* Any EFP that has been altered, erased, or mutilated is invalid.

(h) *Transfer.* EFPs issued under subparts B through F of this part are not transferable or assignable. An EFP is valid only for the vessel(s) for which it is issued.

(i) *Inspection.* Any EFP issued under subparts B through F of this part must be carried aboard the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any authorized officer.

(j) *Sanctions.* Failure of the holder of an EFP to comply with the terms and conditions of an EFP, the provisions of subparts A through F of this part, any other applicable provision of this part, the Magnuson Act, or any other regulation promulgated thereunder, is grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke, suspend, or modify an EFP will be governed by 15 CFR part 904 subpart D. Other sanctions available under the statute will be applicable.

(k) *Protected species.* Persons fishing under an EFP must report any incidental take or fisheries interaction with protected species on a form provided for that purpose. Reports must be submitted to the Regional Director within 3 days of arriving in port.

Subpart C—Western Pacific Pelagic Fisheries

§ 660.21 Permits.

(a) A fishing vessel of the United States must be registered for use under a Hawaii longline limited access permit or a longline general permit if that vessel is used:

(1) To fish for Pacific pelagic management unit species using longline gear in the EEZ around American Samoa, Guam, the Northern Mariana Islands, or other U.S. island possessions in the Pacific Ocean; or

(2) To land or transship, shoreward of the outer boundary of the EEZ around American Samoa, Guam, the Northern Mariana Islands, or other U.S. island

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possessions in the Pacific Ocean, Pacific pelagic management unit species that were harvested with longline gear.

(b) A fishing vessel of the United States must be registered for use under a Hawaii longline limited access permit if that vessel is used:

(1) To fish for Pacific pelagic management unit species using longline gear in the EEZ around Hawaii; or

(2) To land or transship, shoreward of the outer boundary of the EEZ around Hawaii, Pacific pelagic management unit species that were harvested with longline gear.

(c) A receiving vessel must be registered for use with a receiving vessel permit if that vessel is used to land or transship, shoreward of the outer boundary of the fishery management area, Pacific pelagic management unit species that were harvested with longline gear.

(d) Any required permit must be on board the vessel and available for inspection by an authorized agent, except that if the permit was issued while the vessel was at sea, this requirement applies only to any subsequent trip.

(e) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(f) An application for a permit required under this section will be submitted to the Pacific Area Office as described in § 660.13.

(g) General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, and sanctions for permits issued under this section, as applicable, are contained in § 660.13.

(h) A limited access permit may be transferred as follows:

(1) The owner of a Hawaii longline limited access permit may apply to transfer the permit:

(i) To a different person for registration for use with the same or another vessel; or

(ii) For registration for use with another U.S. vessel under the same ownership.

(2) An application for a permit transfer will be submitted to the Pacific Area Office as described in § 660.13(c).

(i) A Hawaii longline limited access permit will not be registered for use

with a vessel that has a LOA greater than 101 ft (30.8 m).

(j) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) a Hawaii longline limited access permit.

(k) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or any permit owner may appeal to the Regional Director the granting, denial, conditioning, suspension, or transfer of a permit or requested permit under this section. To be considered by the Regional Director, the appeal will be in writing, will state the action(s) appealed, and the reasons therefor, and will be submitted within 30 days of the action(s) by the FMD. The appellant may request an informal hearing on the appeal.

(1) Upon receipt of an appeal authorized by this section, the Regional Director may request additional information. Upon receipt of sufficient information, the Regional Director will decide the appeal in accordance with the criteria set out in this part and in the Fishery Management Plans prepared by the Council, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information available; the summary record kept of any hearing and the hearing officer's recommended decision, if any, as provided in paragraph (k)(3) of this section; and such other considerations as deemed appropriate. The Regional Director will notify the appellant of the decision and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(2) If a hearing is requested, or if the Regional Director determines that one is appropriate, the Regional Director may grant an informal hearing before a hearing officer designated for that purpose. Such a hearing normally shall be held no later than 30 days following receipt of the appeal, unless the hearing officer extends the time. The appellant and, at the discretion of the hearing officer, other interested persons, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing

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officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend, in writing, a decision to the Regional Director.

(3) The Regional Director may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Director will notify the appellant, and interested persons, if any, of the decision, and the reason(s) therefor, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Director's action shall constitute final Agency action for the purposes of the APA.

(4) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Director for good cause, either upon his/her own motion or upon written request from the appellant stating the reason(s) therefor.

(1) Applications for the re-registration of any vessel that was de-registered from a Hawaii longline limited access permit after March 29, 2001, must be received at PIAO or postmarked between September 15 and October 15.

[61 FR 34572, July 2, 1996, as amended at 67 FR 40235, June 12, 2002]

EFFECTIVE DATE NOTE: At 67 FR 56502, Sept. 4, 2002, § 660.21 was amended by redesignating paragraph (l) as paragraph (n), and paragraphs (d) through (k) as paragraphs (e) through (l) respectively; newly redesignated paragraph (l)(1) was revised; and paragraphs (d) and (m) were added, effective Oct. 4, 2002. For the convenience of the user the revised text follows:

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* * * * *

(d) A fishing vessel of the United States must be registered for use with a PRIA pelagic troll and handline fishing permit if that vessel is used to fish for Pacific pelagic management unit species using pelagic handline or trolling fishing methods in the U.S. EEZ around the PRIA.

* * * * *

(1) * * *

(1) Upon receipt of an appeal authorized by this section, the Regional Administrator may request additional information. Upon receipt of sufficient information, the Re-

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gional Administrator will decide the appeal in accordance with the criteria set out in this part and in the fishery management plans prepared by the Council, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information available; the summary record kept of any hearing and the hearing officer's recommended decision, if any, as provided in paragraph (1)(3) of this section; and such other considerations as deemed appropriate. The Regional Administrator will notify the appellant of the decision and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

* * * * *

(m) Except during October, NMFS will not register with a Hawaii longline limited access permit any vessel that is de-registered from a Hawaii longline limited access permit after March 29, 2001.

§ 660.22 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) Fish for Pacific pelagic management unit species using gear prohibited under § 660.30 or not permitted by an EFP issued under § 660.17.

(b) Falsify or fail to make and/or file all reports of Pacific pelagic management unit species landings, containing all data and in the exact manner, as required by applicable state law or regulation, as specified in § 660.3, provided that the person is required to do so by applicable state law or regulation.

(c) Use a longline vessel without a valid longline general permit or a Hawaii longline limited access permit registered for use with that vessel, to fish for Pacific pelagic management unit species in the EEZ around American Samoa, Guam, the Northern Mariana Islands, or U.S. possessions in the Pacific Ocean area.

(d) Use a longline fishing vessel without a valid Hawaii longline limited access permit registered for use with that vessel to fish for Pacific pelagic management unit species in the EEZ around Hawaii.

(e) Use a receiving vessel without a valid receiving vessel permit registered for use with that vessel to land or transship, shoreward of the outer

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Point	N. lat.	W. long.
U	22°25'	160°20'
V	21°55'	160°55'
W	21°40'	161°00'
E	21°40'	161°55'
D	20°40'	161°40'
C	20°00'	157°30'
B	18°20'	156°25'
A	18°05'	155°40'

(d) *Guam*. The longline fishing prohibited area around Guam is the waters seaward of Guam bounded by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
A	14°25'	144°00'
B	14°00'	143°38'
C	13°41'	144°33'30"
D	13°00'	143°25'30"
E	12°20'	143°37'
F	11°40'	144°09'
G	12°00'	145°00'
H	13°00'	145°42'
I	13°27'	145°51'

§ 660.27 Exemptions for longline fishing prohibited areas; procedures.

(a) An exemption permitting a person to use longline gear to fish in a portion(s) of the Hawaii longline fishing prohibited area will be issued to a person who can document that he or she:

(1) Currently owns a Hawaii longline limited access permit issued under this part and registered for use with his or her vessel.

(2) Before 1970, was the owner or operator of a vessel when that vessel landed Pacific pelagic management unit species taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area.

(3) Was the owner or operator of a vessel that landed Pacific pelagic management unit species taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area, in at least 5 calendar years after 1969, which need not be consecutive.

(4) In any one of the 5 calendar years, was the owner or operator of a vessel that harvested at least 80 percent of its total landings, by weight, of longline-caught Pacific pelagic management unit species in an area that is now in the Hawaii longline fishing prohibited area.

(b) Each exemption shall specify the portion(s) of the Hawaii longline fishing prohibited area, bounded by longi-

tudinal and latitudinal lines drawn to include each statistical area, as appearing on Hawaii State Commercial Fisheries Charts, in which the exemption holder made the harvest documented for the exemption application under paragraph (a)(4) of this section.

(c) Each exemption is valid only within the portion(s) of the Hawaii longline fishing prohibited area specified on the exemption.

(d) A person seeking an exemption under this section must submit an application and supporting documentation to the Pacific Area Office at least 15 days before the desired effective date of the exemption.

(e) If the Regional Director determines that a gear conflict has occurred and is likely to occur again in the Hawaii longline fishing prohibited area between a vessel used by a person holding an exemption under this section and a non-longline vessel, the Regional Director may prohibit all longline fishing in the Hawaii longline fishing prohibited area around the island where the conflict occurred, or in portions thereof, upon notice to each holder of an exemption who would be affected by such a prohibition.

(f) The Council will consider information provided by persons with Hawaii longline limited access permits issued under this part who believe they have experienced extreme financial hardship resulting from the Hawaii longline area closure, and will consider recommendations of the Pelagic Advisory Review Board to assess whether exemptions under this section should continue to be allowed, and, if appropriate, revise the qualifying criteria in paragraph (a) of this section to permit additional exemptions.

(1) If additional exemptions are needed, the Council will advise the Regional Director in writing of its recommendation, including criteria by which financial hardships will be mitigated, while retaining the effectiveness of the longline fishing prohibited area.

(2) Following a review of the Council's recommendation and supporting rationale, the Regional Director may:

(i) Reject the Council's recommendation, in which case written reasons will be provided by the Regional Director to the Council for the rejection; or

(ii) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the Pelagics FMP, the national standards, and other applicable law, initiate rulemaking to implement the Council's recommendations.

§ 660.28 Conditions for at-sea observer coverage.

(a) NMFS shall advise the permit holder or the designated agent of any observer requirement at least 24 hours (not including weekends and Federal holidays) before any trip for which NMFS received timely notice in compliance with these regulations.

(b) The "Notice Prior to Fishing Trip" requirements in this subpart commit the permit holder to the representations in the notice. The notice can be modified by the permit holder or designated agent because of changed circumstance, if the Regional Director is promptly provided a modification to the notice that complies with the notice requirements. The notice will also be considered modified if the Regional Director and the permit holder or designated agent agree to placement changes.

(c) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart, or as a condition of an EFP issued under § 660.17, the vessel may not engage in the fishery without taking the observer.

(d) A NMFS observer shall arrive at the observer's assigned vessel 30 minutes before the time designated for departure in the notice or the notice as modified, and will wait 1 hour for departure.

(e) A permit holder must accommodate a NMFS observer assigned under these regulations. The Regional Director's office, and not the observer, will address any concerns raised over accommodations.

(f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:

(1) Allowing for the embarking and debarking of the observer.

(2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.

(3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.

(4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.

(5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.

(6) Providing sea turtle, marine mammal, or sea bird specimens as requested.

(7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

(g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Director imposes by written notice.

(h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel. A mattress or futon on the floor or a cot is not acceptable if a regular bunk is provided to any crew member, unless other arrangements are approved in advance by the Regional Director.

(i) Reimbursement requirements are as follows:

(1) Upon observer verification of vessel accommodations and the number of assigned days on board, NMFS will reimburse vessel owners a reasonable amount for observer subsistence as determined by the Regional Director.

(2) If requested and properly documented, NMFS will reimburse the vessel owner for the following:

(i) Communications charges incurred by the observer.

(ii) Lost fishing time arising from a seriously injured or seriously ill observer, provided that notification of the nature of the emergency is transmitted to the Fisheries Observer Branch, Southwest Region, NMFS (see

§ 660.38 Exemptions for American Samoa large vessel prohibited areas.

(a) An exemption will be issued to a person who currently owns a large vessel, to use that vessel to fish for Pacific pelagic management unit species in the American Samoa large vessel prohibited management areas, if he or she had been the owner of that vessel when it was registered for use with a longline general permit and made at least one landing of Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997.

(b) A landing of Pacific pelagic management unit species for the purpose of this section must have been properly recorded on a NMFS Western Pacific Federal daily longline form that was submitted to NMFS, as required in § 660.14.

(c) An exemption is valid only for a vessel that was registered for use with a longline general permit and landed Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997, or for a replacement vessel of equal or smaller LOA than the vessel that was initially registered for use with a longline general permit on or prior to November 13, 1997.

(d) An exemption is valid only for the vessel for which it is registered. An exemption not registered for use with a particular vessel may not be used.

(e) An exemption may not be transferred to another person.

(f) If more than one person, e.g., a partnership or corporation, owned a large vessel when it was registered for use with a longline general permit and made at least one landing of Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997, an exemption issued under this section will be issued to only one person.

[67 FR 4371, Jan. 30, 2002]

Subpart D—Western Pacific Crustacean Fisheries

§ 660.41 Permits.

(a) *Applicability.* (1) The owner of any vessel used to fish for lobster in Permit Area 1 must have a limited access per-

mit issued for such vessel. Only one permit will be assigned to any vessel.

(2) The owner of any vessel used to fish for lobster in Permit Area 2 or Permit Area 3, must have a permit issued for such a vessel.

(3) No vessel owner will have permits for a single vessel to harvest lobsters in Permit Areas 1 and 2 at the same time.

(4) A limited access permit is valid for fishing only in Permit Area 1.

(b) *General requirements.* General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits issued under this section, as applicable, are contained in § 660.13.

(c) *Application.* An application for a permit required under this section will be submitted to the Pacific Area Office as described in § 660.13. If the application for a limited access permit is submitted on behalf of a partnership or corporation, the application must be accompanied by a supplementary information sheet obtained from the Pacific Area Office and contain the names and mailing addresses of all partners or shareholders and their respective percentage of ownership in the partnership or corporation.

(d) *Number of permits.* A maximum of 15 limited access permits can be valid at any time.

(e) *Transfer or sale of limited access permits.* (1) Permits may be transferred or sold, but no one individual, partnership, or corporation will be allowed to hold a whole or partial interest in more than one permit, except that an owner who qualifies initially for more than one permit may maintain those permits, but may not obtain additional permits. Layering of partnerships or corporations shall not insulate a permit holder from this requirement.

(2) If 50 percent or more of the ownership of a limited access permit is passed to persons other than those listed on the permit application, the Pacific Area Office must be notified of the change in writing and provided copies of the appropriate documents confirming the changes within 30 days.

(3) Upon the transfer or sale of a limited access permit, a new application must be submitted by the new permit

owner according to the requirements of § 660.13. The transferred permit is not valid until this process is completed.

(f) *Replacement of a vessel covered by a limited access permit.* A limited access permit issued under this section may, without limitation as to frequency, be transferred by the permit holder to a replacement vessel owned by that person.

(g) *Issuance of limited access permits to future applicants.*

(1) The Regional Director may issue limited access permits under this section when fewer than 15 vessel owners hold active permits.

(2) When the Regional Director has determined that limited access permits may be issued to new persons, a notice shall be placed in the FEDERAL REGISTER, and other means will be used to notify prospective applicants of the opportunity to obtain permits under the limited access management program.

(3) A period of 90 days will be provided after publication of the FEDERAL REGISTER notice for submission of new applications for a limited access permit.

(4) Limited access permits issued under this paragraph (g) will be issued first to applicants qualifying under paragraph (g)(4)(i) of this section. If the number of limited access permits available is greater than the number of applicants that qualify under paragraph (g)(4)(i) of this section, then limited access permits will be issued to applicants under paragraph (g)(4)(ii) of this section.

(i) First priority to receive limited access permits under this paragraph (g) goes to owners of vessels that were used to land lobster from Permit Area 1 during the period 1983 through 1990, and who were excluded from the fishery by implementation of the limited access system. If there are insufficient permits for all such applicants, the new permits shall be issued by the Regional Director through a lottery.

(ii) Second priority to receive limited access permits under paragraph (g) goes to owners with the most points, based upon a point system. If two or more owners have the same number of points and there are insufficient permits for all such owners, the Regional Director shall issue the permits

through a lottery. Under the point system, limited access permits will be issued, in descending order, beginning with owners who have the most points and proceeding to owners who have the least points, based on the following:

(A) Three points shall be assigned for each calendar year after August 8, 1985, that the applicant was the operator of a vessel that was used to land lobster from Permit Area 1.

(B) Two points shall be assigned for each calendar year or partial year after August 8, 1985, that the applicant was the owner, operator, or crew member of a vessel engaged in either commercial fishing in Permit Area 2 for lobster, or fishing in Permit Area 1 for fish other than lobster with an intention to sell all or part of the catch.

(C) One point shall be assigned for each calendar year or partial year after August 8, 1985, that the applicant was the owner, operator, or crew member of a vessel engaged in any other commercial fishing in the EEZ surrounding Hawaii.

(5) A holder of a new limited access permit must own at least a 50-percent share in the vessel that the permit would cover.

§ 660.42 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 660.16, it is unlawful for any person to do any of the following:

(a) In Permit Area 1, it is unlawful for any person to—

(1) Fish for, take, or retain lobsters—

(i) Without a limited access permit issued under § 660.41;

(ii) By methods other than lobster traps or by hand for lobsters, as specified in § 660.48;

(iii) From closed areas for lobsters, as specified in § 660.46;

(iv) During a closed season, as specified in § 660.45; or

(v) After the closure date, as specified in § 660.50, and until the fishery opens again in the following calendar year.

(vi) In a lobster grounds after closure of that grounds as specified in § 660.50(b).

(2) Fail to report before landing or offloading as specified in § 660.43.

public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Director.

(d) *Procedure for New Measures.* (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council will publicize, including by a FEDERAL REGISTER document, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a FEDERAL REGISTER document summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Director about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Director.

§ 660.54 Five-year review.

The Council, in cooperation with NMFS, will conduct a review of the effectiveness and impacts of the NWHI management program, including biological, economic, and social aspects of the fishery, by July 1, 2001.

**Subpart E—Bottomfish and
Seamount Groundfish Fisheries**

§ 660.61 Permits.

(a) *Applicability.* (1) The owner of any vessel used to fish for bottomfish management unit species in the Northwestern Hawaiian Islands Subarea must have a permit issued under this section and the permit must be registered for use with the vessel.

(2) The PIAO will not register a single vessel for use with a Ho'omalau Zone permit and a Mau Zone permit at the same time.

(3) Mau Zone permits issued before June 14, 1999 become invalid June 14, 1999, except that a permit issued to a person who submitted a timely application under paragraph (i) of this section is valid until the permit holder either receives a Mau Zone limited entry permit or until final agency action is taken on the permit holder's application. The Ho'omalau Zone and the Mau Zone limited entry systems described in this section are subject to abolition, modification, or additional effort limitation programs.

(b) *Submission.* (1) An application for a permit required under this section must be submitted to the PIAO as described in § 660.13. (2) *Ho'omalau Zone limited access permit.* In addition to an application under § 660.13(c), each applicant for a Ho'omalau Zone permit must also submit a supplementary information sheet provided by the PIAO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) A copy of landings receipts or other documentation, with a certification from a state or Federal agency that this information is accurate, to demonstrate participation in the NWHI bottomfish fishery; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentages of ownership of the partnership or corporation.

(3) *Mau Zone limited access permit.* The PIAO will not accept applications for a new Mau Zone permit after June 14, 1999. In addition to an application under § 660.13(c), each applicant for a Mau Zone permit must also submit a supplementary information sheet provided by the PIAO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) Copy of State of Hawaii catch report(s) to demonstrate that the permitted vessel had made qualifying

landings of bottomfish from the Mau Zone; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentage of ownership of the partnership or corporation.

(c) *Sale or transfer of Ho'omalū limited access permits to new vessel owners.* (1) A Ho'omalū zone permit may not be sold or otherwise transferred to a new owner.

(2) A Ho'omalū zone permit or permits may be held by a partnership or corporation. If 50 percent or more of the ownership of the vessel passes to persons other than those listed in the original application, the permit will lapse and must be surrendered to the Regional Administrator.

(d) *Transfer of Ho'omalū Zone limited access permits to replacement vessels.* (1) Upon application by the owner of a permitted vessel, the Regional Administrator will transfer that owner's permit to a replacement vessel owned by that owner, provided that the replacement vessel does not exceed 60 ft (18.3 m) in length. The replacement vessel must be put into service no later than 12 months after the owner applies for the transfer, or the transfer shall be void.

(2) An owner of a permitted vessel may apply to the Regional Administrator for transfer of that owner's permit to a replacement vessel greater than 60 ft (18.3 m) in length. The Regional Administrator may transfer the permit upon determining, after consultation with the Council and considering the objectives of the limited access program, that the replacement vessel has catching power that is comparable to the rest of the vessels holding permits for the fishery, or has catching power that does not exceed that of the original vessel, and that the transfer is not inconsistent with the objectives of the program. The Regional Administrator shall consider vessel length, range, hold capacity, gear limitations, and other appropriate factors in making determinations of catching power equivalency and comparability of the catching power of vessels in the fishery.

(e) *Ho'omalū Zone limited access permit renewal.* (1) A qualifying landing for Ho'omalū Zone permit renewal is a landing of at least 2,500 lb (1,134 kg) of bottomfish management unit species from the Ho'omalū Zone or a landing of at least 2,500 lb (1,134 kg) of fish from the Ho'omalū Zone, of which at least 50 percent by weight was bottomfish management unit species. A permit is eligible for renewal for the next calendar year if the vessel covered by the permit made three or more qualifying landings during the current calendar year.

(2) The owner of a permitted vessel that did not make three or more qualifying landings of bottomfish in a year may apply to the Regional Administrator for waiver of the landing requirement. If the Regional Administrator finds that failure to make three landings was due to circumstances beyond the owner's control, the Regional Administrator may renew the permit. A waiver may not be granted if the failure to make three landings was due to general economic conditions or market conditions, such that the vessel operations would not be profitable.

(f) *Issuance of new Ho'omalū Zone limited access permits.* The Regional Administrator may issue new Ho'omalū Zone limited access permits under § 660.13 if the Regional Administrator determines, in consultation with the Council, that bottomfish stocks in the Ho'omalū Zone are able to support additional fishing effort.

(g) *Eligibility for new Ho'omalū Zone limited access permits.* When the Regional Administrator has determined that new permits may be issued, they shall be issued to applicants based upon eligibility, determined as follows:

(1) *Point system.* (i) Two points will be assigned for each year in which the applicant was owner or captain of a vessel that made three or more of any of the following types of landings in the NWHI:

(A) Any amount of bottomfish management unit species, regardless of weight, if made on or before August 7, 1985;

(B) At least 2,500 lb (1,134 kg) of bottomfish management unit species, if made after August 7, 1985; or

(C) At least 2,500 lb (1,134 kg) of any fish lawfully harvested from the NWHI,

of which at least 50 percent by weight was bottomfish, if made after August 7, 1985.

(ii) One point will be assigned for each year in which the applicant was owner or captain of a vessel that landed at least 6,000 lb (2,722 kg) of bottomfish from the main Hawaiian Islands.

(iii) For any one year, points will be assigned under either paragraph (g)(1)(i) or (g)(1)(ii) of this section, but not under both paragraphs.

(iv) Before the Regional Administrator issues an Ho'omalua zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) *Restrictions.* An applicant must own at least a 25-percent share in the vessel that the permit would cover, and only one permit will be assigned to any vessel.

(3) *Order of issuance.* New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Administrator through a lottery.

(4) *Notification.* The Regional Administrator shall place a notice in the *Federal Register* and shall use other means to notify prospective applicants of the opportunity to file applications for new permits under this program.

(h) *Eligibility for new Mau Zone limited access permits.* (1) The PIAO will issue an initial Mau Zone permit to a vessel owner who qualifies for at least three points under the following point system:

(i) An owner who held a Mau Zone permit on or before December 17, 1991, and whose permitted vessel made at least one qualifying landing of bottomfish management unit species on or before December 17, 1991, shall be assigned 1.5 points.

(ii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1991, shall be assigned 0.5 point.

(iii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1992, shall be assigned 1.0 point.

(iv) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1993, shall be assigned 1.5 points.

(v) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1994, shall be assigned 2.0 points.

(vi) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1995, shall be assigned 2.5 points.

(vii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1996, shall be assigned 3.0 points.

(viii) Before the PIAO issues a Mau Zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) For purposes of this paragraph § 660.61(h), a “qualifying landing” means any amount of bottomfish management unit species lawfully harvested from the Mau Zone and offloaded for sale. No points shall be assigned to an owner for any qualifying landings reported to the State of Hawaii more than 1 year after the landing.

(3) More than one Mau Zone permit may be issued to an owner of two or more vessels, provided each of the owner's vessels for which a permit will be registered for use has made the required qualifying landings for the owner to be assigned at least three eligibility points.

(4) A Mau Zone permit holder who does not own a vessel at the time initial permits are issued must register the permit for use with a vessel owned by the permit holder within 12 months from the date the permit was issued. In the interim, the permit holder may register the permit for use with a leased or chartered vessel. If within 12 months of initial permit issuance, the permit holder fails to apply to the PIAO to register the permit for use

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with a vessel owned by the permit holder, then the permit expires.

(5) For each of paragraphs (h)(1)(i) through (h)(1)(viii) of this section, the PIAO shall assign points based on the landings of one permitted vessel to only one owner if the vessel did not have multiple owners during the time frame covered by the subordinate paragraphs. If a vessel had multiple owners during a time frame covered by any of paragraphs (h)(1)(i) through (h)(1)(viii) of this section (including joint owners, partners, or shareholders of a corporate owner), the PIAO will assign the points for that subordinate paragraph to a single owner if only one owner submits an application with respect to the landings of that vessel during that time frame. If multiple owners submit separate applications with respect to the same landings of the same vessel during the same time frame, then the PIAO shall:

(i) Adhere to any written agreement between the applicants with respect to who among them shall be assigned the aggregate point(s) generated by landings during such time frame(s), or

(ii) If there is no agreement:

(A) Shall issue the applicants a joint permit provided the vessel's landings during such time frames generated at least three points, or

(B) In the event the vessel's landings during such time frame(s) generated less than three points, shall not assign any points generated by the vessel's landings during such time frame(s).

(i) *Ownership requirements and registration of Mau Zone limited access permits for use with other vessels.* (1) A Mau Zone permit may be held by an individual, partnership, or corporation. No more than 49 percent of the underlying ownership interest in a Mau Zone permit may be sold, leased, chartered, or otherwise transferred to another person or entity. If more than 49 percent of the underlying ownership of the permit passes to persons or entities other than those listed in the original permit application supplemental information sheet, then the permit expires and must be surrendered to the PIAO.

(2) A Mau Zone permit holder may apply under § 660.13 to the PIAO to register the permit for use with another vessel if that vessel is owned by the

permit holder, and is no longer than 60 ft (18.3 m).

(3) If a Mau Zone permit holder sells the vessel, for which the permit is registered for use, the permit holder must within 12 months of the date of sale apply to the PIAO to register the permit for use with a vessel owned by the permit holder. If the permit holder has not applied to register a replacement vessel within 12 months, then the permit expires.

(4) If a permitted vessel owned by the permit holder is sold or becomes unseaworthy, the Mau Zone permit with which the vessel was registered may be registered for use with a leased or chartered vessel for a period not to exceed 12 months from the date of registration of the leased or chartered vessel. If by the end of that 12-month period the permit holder fails to apply to the PIAO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(j) *Mau Zone limited access permit renewal.* (1) A Mau Zone permit will be eligible for renewal if the vessel for which the permit is registered for use made at least five separate fishing trips with landings of at least 500 lb (227 kg) of bottomfish management unit species per trip during the calendar year. Only one landing of bottomfish management unit species per fishing trip to the Mau Zone will be counted toward the landing requirement.

(2) If the vessel for which the permit is registered for use fails to meet the landing requirement of paragraph (j)(1) of this section, the owner may apply to the Regional Administrator for a waiver of the landing requirement. Grounds for a waiver are limited to captain incapacitation, vessel breakdowns, and the loss of the vessel at sea if the event prevented the vessel from meeting the landing requirement. Unprofitability is not sufficient for waiver of the landing requirement.

(3) Failure of the permit holder to register a vessel for use under the permit does not exempt a permit holder from the requirements specified in this paragraph.

(k) *Appeals of permit actions.* (1) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or

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a permit holder may appeal the granting, denial, or revocation of his or her permit to the Regional Administrator.

(2) In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action appealed, and the reasons therefor, and must be submitted within 30 days of the appealed action. The appellant may request an informal hearing on the appeal.

(3) The Regional Administrator, in consultation with the Council, will decide the appeal in accordance with the FMP and implementing regulations and based upon information relative to the application on file at NMFS and the Council, the summary record kept of any hearing, the hearing officer's recommended decision, if any, and any other relevant information.

(4) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. The applicant or permit holder may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. The Regional Administrator's decision on the application is the final administrative decision of the Department of Commerce, and is effective on the date the Administrator signs the decision.

[64 FR 22812, Apr. 28, 1999]

§ 660.62 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 660.15, it is unlawful for any person to do any of the following:

(a) Fish for bottomfish or seamount groundfish using gear prohibited under § 660.64.

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Ho'omalulu Zone or Mau Zone without the appropriate permit, reg-

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istered for use with that vessel, issued under § 660.13.

(c) Serve as primary operator or relief operator on a vessel with a Mau or Ho'omalulu Zone permit without completing a protected species workshop conducted by NMFS, as required by § 660.61.

(d) Fail to notify the USCG at least 24 hours prior to making any landing of bottomfish taken in the Ho'omalulu Zone, as required by § 660.63.

(e) Fish within any protected species study zone in the NWHI without notifying the Regional Director of the intent to fish in these zones, as required under § 660.63.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22814, Apr. 28, 1999]

§ 660.63 Notification.

(a) The owner or operator of a fishing vessel subject to this subpart must inform the Pacific Area Office at least 72 hours (not including weekends and holidays) before leaving port, of his or her intent to fish within the protected species study zones defined in § 660.12. The notice must include the name of the vessel, name of the operator, intended departure and return date, and a telephone number at which the owner or operator may be contacted during the business day (8 a.m. to 5 p.m.) to indicate whether an observer will be required on the subject fishing trip.

(b) The operator of a fishing vessel that has taken bottomfish in the Ho'omalulu Zone must contact the USCG, by radio or otherwise, at the 14th District, Honolulu, HI; Pacific Area, San Francisco, CA; or 17th District, Juneau, AK, at least 24 hours before landing, and report the port and the approximate date and time at which the bottomfish will be landed.

§ 660.64 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets.* Fishing for bottomfish and seamount groundfish with bottom trawls and bottom set gillnets is prohibited.

(b) *Possession of gear.* Possession of a bottom trawl and bottom set gillnet by any vessel having a permit under § 660.61 or otherwise established to be fishing for bottomfish or seamount groundfish in the management sub-areas is prohibited.

Fishery Conservation and Management

§ 660.82

establish a new target number based on the 5-year review.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22814, Apr. 28, 1999]

§ 660.68 Fishing moratorium on Hancock Seamount.

Fishing for bottomfish and seamount groundfish on the Hancock Seamount is prohibited through August 31, 2004.

[63 FR 35163, June 29, 1998]

§ 660.69 Management subareas.

(a) The bottomfish fishery management area is divided into five subareas for the regulation of bottomfish and seamount groundfish fishing with the following designations and boundaries:

(1) Main Hawaiian Islands means the EEZ of the Hawaiian Islands Archipelago lying to the east of 161°20' W. long.

(2) Northwestern Hawaiian Islands (NWHI) means the EEZ of the Hawaiian Islands Archipelago lying to the west of 161°20' W. long. However, for the purposes of regulations issued under this subpart, Midway Island is treated as part of the Northwestern Hawaiian Islands Subarea.

(i) Ho'omalū Zone means that portion of the EEZ around the NWHI west of 165° W. long.

(ii) Mau Zone means that portion of the EEZ around the NWHI between 161°20' W. long. and 165° W. long.

(3) Hancock Seamount means that portion of the EEZ in the Northwestern Hawaiian Islands west of 180°00' W. long. and north of 28°00' N. lat.

(4) Guam means the EEZ seaward of the Territory of Guam.

(5) American Samoa means the EEZ seaward of the Territory of American Samoa.

(b) The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the State of Hawaii, the Territory of American Samoa, and the Territory of Guam (the "3 mile-limit").

(c) The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries.

The outer boundary of the fishery management area north of Guam will extend to those points which are equidistant between Guam and the island of Rota in the Commonwealth of the Northern Mariana Islands.

Subpart F—Precious Corals Fisheries

§ 660.81 Permits.

(a) Any vessel of the United States fishing for, taking, or retaining precious coral in any precious coral permit area must have a permit issued under § 660.13.

(b) Each permit will be valid for fishing only in the permit area specified on the permit. Precious Coral Permit Areas are defined in § 660.12.

(c) No more than one permit will be valid for any one vessel at any one time.

(d) No more than one permit will be valid for any one person at any one time.

(e) The holder of a valid permit to fish one permit area may obtain a permit to fish another permit area only upon surrendering to the Regional Director any current permit for the precious corals fishery issued under § 660.13.

(f) General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits for the precious corals fishery are contained in § 660.13.

§ 660.82 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and in § 660.15, it is unlawful for any person to:

(a) Use any vessel to fish for, take, retain, possess or land precious coral in any precious coral permit area, unless a permit has been issued for that vessel and area as specified in § 660.13 and that permit is on board the vessel.

(b) Fish for, take, or retain any species of precious coral in any precious coral permit area:

(1) By means of gear or methods prohibited by § 660.88.

(2) In refugia specified in § 660.12.

(3) In a bed for which the quota specified in § 660.84 has been attained.

(d) After the directed fishery for a CPS is closed under § 660.509, no person may take and retain, possess or land more of that species than the incidental trip limit set by the Regional Administrator.

(e) While fishing for CPS, all species of trout and salmon (*Salmonidae*) and Pacific halibut (*Hippoglossus stenolepis*) are prohibited species and must be released immediately with a minimum of injury.

§ 660.512 Limited entry fishery.

(a) *General.* (1) This section applies to fishing for or landing CPS finfish in the limited entry fishery in the Limited Entry Zone.

(2) Effective January 1, 2000, the owner of a vessel with more than 5 mt of CPS finfish on board in the CPS Limited Entry Zone, other than live bait, must have a limited entry permit registered for use with that vessel.

(3) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) qualifies to be issued or may hold, by ownership or otherwise, a limited entry permit.

(b) *Initial qualification.* (1) A limited entry permit for a vessel will be issued only if that vessel landed 100 mt of CPS finfish from January 1, 1993, through November 5, 1997.

(2) A limited entry permit will be issued only to the current owner of the vessel, unless:

(i) The previous owner of a vessel qualifying for a permit, by the express terms of a written contract, reserved the right to the limited entry permit, in which case the limited entry permit will be issued to the previous owner based on the catch history of the qualifying vessel, or

(ii) A vessel that would have qualified for a limited entry permit was totally lost prior to issuance of a limited entry permit. In this case, the owner of the vessel at the time it was lost retains the right to a permit for a replacement vessel, unless the owner conveyed the right to another person by the express terms of a written contract. The lost vessel must be replaced within 2 years of the date that the qualifying vessel was lost, and the replaced vessel must be of equal or less net tonnage.

(c) *Documentation and burden of proof.*

A vessel owner (or person holding limited entry rights under the express terms of a written contract as specified in paragraph (a)(2)) of this section applying for issuance, renewal, transfer, or registration of a limited entry permit must prove that the qualification requirements are met by submitting the following documentation:

(1) A certified copy of the vessel's documentation as a fishing vessel of the United States (U.S. Coast Guard or state) is the best evidence of vessel ownership;

(2) A certified copy of a state fish landing receipt is the best evidence of a landing of a vessel;

(3) A copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights; and

(4) Other relevant, credible evidence that the applicant may wish to submit or that the SFD may request or require.

(d) *Fees.* The Regional Administrator may charge fees to cover administrative expenses related to issuing limited entry permits, as well as renewing, transferring, and replacing permits. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

(e) *Initial decisions.* (1) The SFD will make initial decisions regarding issuing, renewing, transferring, and registering limited entry permits.

(2) Adverse decisions shall be in writing and shall state the reasons for the adverse decision.

(3) The SFD may decline to act on an application for issuing, renewing, transferring, or registering a limited entry permit and will notify the applicant, if the permit sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D, apply.

(f) *Initial issuance.* (1) The SFD will issue limited entry permits.

(2) In order to receive a final decision on a limited entry permit application before January 1, 2000, an applicant must submit the application to the SFD on or before February 14, 2000.

(3) A separate, complete, and accurate application form, accompanied by any required supporting documentation and the appropriate fee, must be submitted for each vessel for which a limited entry permit is sought.

(4) Upon receipt of an incomplete or improperly executed application, the SFD will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered void.

(5) The SFD may request further documentation before acting on an application.

(6) The SFD will not accept applications for a limited entry permit after July 1, 2000.

(g) *Appeals.* (1) Any applicant for an initial permit may appeal the initial issuance decision to the Regional Administrator. To be considered by the Regional Administrator, such appeal must be in writing and state the reasons for the appeal, and must be submitted within 30 days of the action by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(2) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal.

(3) Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the permit eligibility criteria set forth in this section and in the FMP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information submitted to or obtained by the Regional Administrator, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as the Regional Administrator deems appropriate. The Regional Administrator will notify all interested persons of the decision, and

the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(4) If a hearing is requested or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant and, at the discretion of the hearing officer, other interested persons may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action shall constitute final action for the agency for the purposes of the APA.

(6) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.

§ 660.513 Permit conditions.

(a) A limited entry permit expires on failure to renew the limited entry permit as specified in § 660.515.

(b) A limited entry permit may not be used with a vessel unless it is registered for use with that vessel. Limited entry permits will be registered for use with a particular vessel at the time the permit is issued, renewed, or transferred.

§ 660.514

(c) Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson-Stevens Act, 16 U.S.C. 1858(g), and 15 CFR part 904, subpart D.

§ 660.514 Transferability.

(a) Upon application by the permit holder, the SFD will process applications for transferring limited entry permits according to this section.

(b) Before January 1, 2001, a limited entry permit may be transferred to a different owner and/or for use with a different vessel. The permit may be transferred only once. No transfer is effective until the permit has been re-issued and is in the possession of the new permit holder.

(c) After December 31, 2000, a permit may not be registered for use with a vessel other than the vessel for which it was registered on December 31, 2000, except as follows:

(1) The vessel to which the permit was registered on December 31, 2000 (the replaced vessel), is totally lost, stolen, or scrapped, such that it cannot be used in a federally regulated commercial fishery, and

(2) The replacement vessel to which the permit will be registered is of equal or less net tonnage than the replaced vessel, and

(3) The replaced vessel is owned by the permit holder.

(d) After December 31, 2000, a limited entry permit may not be transferred to a different owner.

§ 660.515 Renewal of limited entry permits.

(a) Each limited entry permit must be renewed by January 1 of even numbered years.

(b) The SFD will send notices to renew limited entry permits to the most recent address of the permit holder.

(c) The permit owner must provide SFD with notice of any address change within 15 days of the change.

(d) The permit holder must submit applications for renewal of a permit on forms available from the SFD.

(e) The permit owner is responsible for renewing a limited entry permit.

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(f) An expired permit cannot be used to fish for CPS in the limited entry fishery.

§ 660.516 Exempted fishing.

(a) *General.* In the interest of developing an efficient and productive fishery for CPS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of CPS that otherwise would be prohibited.

(b) No exempted fishing for CPS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in § 600.745 of this chapter.

§ 660.517 Framework for revising regulations.

(a) *General.* NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in Amendment 8 to the FMP.

(b) *Annual actions.* Annual specifications are developed and implemented according to § 660.508.

(c) *Routine management measures.* Consistent with section 2.1 of Amendment 8 to the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the FEDERAL REGISTER.

(d) *Changes to the regulations.* Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 2 of Amendment 8 to the FMP and will be published in the FEDERAL REGISTER.

§ 660.518 Pacific Coast Treaty Indian Rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest CPS in their usual and accustomed fishing areas in U.S. waters.

(b) For the purposes of this section, “Pacific Coast treaty Indian tribes” and their “usual and accustomed fishing areas” are described at § 660.324(b) and (c).

(c) Boundaries of a tribe’s fishing area may be revised as ordered by a Federal court.

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

- (A) present participation in the fishery,
- (B) historical fishing practices in, and dependence on, the fishery,
- (C) the economics of the fishery,
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries,
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities, and
- (F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

(c) PROPOSED REGULATIONS.--Proposed regulations which the Council deems necessary or appropriate for the purposes of--

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

statement from the contact officer indicated for this mission below.

Business Development Mission to Romania and Bulgaria

Bucharest and Sofia

Deputy Secretary of Commerce, Samuel Bodman, with Assistant Secretary and Director General of the U.S. and Foreign Commercial Service, Maria Cino, and Assistant Secretary of Commerce for Market Access and Compliance, William Lash, will lead a senior-level business development mission to help U.S. companies explore business opportunities in Romania and Bulgaria. The delegation will include 10–15 U.S.-based senior executives of small, medium and large U.S. firms representing, but not limited to, the following sectors: automotive parts, building products, information technology, telecommunications, defense industry, energy, medical products, environmental technologies, and tourism infrastructure.

Recruitment closes on May 9, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Wright, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 2012, Washington, DC 20230, telephone 202–482–2567, fax 202–482–0178, or e-mail Matthew.Wright@mail.doc.gov.

SUPPLEMENTARY INFORMATION:

Goals for the Mission

The mission will further both U.S. commercial policy objectives and advance specific business interests. It is intended to: assist individual U.S. companies to pursue business opportunities by introducing them to government decision-making officials and to potential business partners; assist new-to-market firms to evaluate the market potential for their products and gain an understanding of how to operate successfully in Romania and Bulgaria; enhance the dialogue between government and industry on issues affecting the development of commercial relations; promote U.S. and Romanian and Bulgarian trade and investment and, as a result, contribute to the political and economic stability of important American allies; and assist U.S. companies to take advantage of opportunities arising from NATO accession.

Scenario for the Mission

American Embassy officials will provide a detailed briefing on the economic, commercial and political climate, and participants will receive individual counseling on their specific interests from the in-country U.S.

Commercial Service industry specialists. Meetings will be arranged as appropriate with senior government officials and potential business partners. Networking events also will be organized to provide opportunities to meet Romanian and Bulgarian business and government representatives, as well as U.S. business people living and working in Romania and Bulgaria. The tentative trip itinerary is as follows: July 14, arrive Bucharest; July 15–16, one-on-one business meetings in Bucharest and evening travel to Sofia; July 17–18, one-on-one business meetings in Sofia. The precise schedule will depend in part on the availability of local government and business officials and the specific goals of the mission participants.

Recruitment and selection of private sector participants for this mission will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

Dated: April 11, 2003.

Carlos Poza,

Deputy Director General, U.S. & Foreign Commercial Service.

[FR Doc. 03–9421 Filed 4–16–03; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041403A]

Proposed Information Collection; Comment Request; Southwest Region Permit Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 16, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Alvin Katekaru, 808–973–2935, ext. 2072937, or at Alvin.Katekaru@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Permits are required for persons to participate in Federally-managed fisheries in the western Pacific region and off the West Coast. There are three types of permits: basic fishery permits (e.g., western Pacific general longline fishing and receiving permits, precious coral permits, and troll or handline permits for pelagic management unit species in waters around the U.S. Pacific remote island areas); limited entry permits for selected fisheries (e.g., Hawaii longline fishery, Northwestern Hawaiian Islands (NWHI) bottomfish fishery, West Coast coastal pelagic fishery); and experimental fishing permits (EFPs). Appeals and certain waivers requests can also be submitted. Some fisheries require an application to transfer a permit.

The permit application forms provide basic information about permit holders and the vessels and gear being used. This information is important for understanding the nature of the fisheries and provides a link to participants. It also aids enforcement of regulations.

II. Method of Collection

Paper forms are required for most permit applications. Experimental fishing permits, waivers, and appeals are submitted in paper format, but forms are not used.

III. Data

OMB Number: 0648–0204.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 369.

Estimated Time Per Response: 30 minutes for a permit application or permit transfer (unless otherwise noted below); 1 hour for additional permit information (when requested) for the coastal pelagic fishery of the Pacific coast; 1 hour for a limited entry permit application for bottomfish in the NWHI Ho'omalulu Zone; 2 hours for a permit appeal; 2 hours for an application for an exemption or experimental fishing permit; and 1 hour for a waiver for NWHI Ho'omalulu Zone or Mau Zone bottomfish permit renewal requirements.

Estimated Total Annual Burden Hours: 248.

Estimated Total Annual Cost to Public: \$185.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 10, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03-9487 Filed 4-16-03; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041403B]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Limits on Application of Take Prohibitions.

Form Number(s): None.

OMB Approval Number: 0648-0399.

Type of Request: Regular submission.

Burden Hours: 4,235.

Number of Respondents: 318.

Average Hours Per Response: 20 hours for a road maintenance agreement; 5 hours for a diversion screening limit project; 30 hours for an urban development package; 15 hours for a tribal plan or joint state/tribal plan;

10 hours for a fishery harvest or hatchery plan; 5 hours for a report of aided, salvaged, or disposed of salmonids; 2 hours for a research permit; 5 hours for an artificial propagation plan; and 5 hours for an annual report.

Needs and Uses: Section 4(d) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et. seq.) requires the National Marine Fisheries Service (NMFS) to adopt such regulations as it "deems necessary and advisable to provide for the conservation of" threatened species. Those regulations may include any or all of the prohibitions provided in section 9(a)(1) of the ESA, which specifically prohibits "take" of any endangered species ("take" includes actions that harass, harm, pursue, kill, or capture). The first salmonid species listed by NMFS as threatened were protected by virtually blanket application of the section 9 take prohibitions. There are now 20 separate Evolutionarily Significant Units (ESUs) of west coast salmonids listed as threatened, covering a large percentage of the land base in California, Oregon, Washington and Idaho. NMFS is obligated to enact necessary and advisable protective regulations.

NMFS makes section 9 prohibitions generally applicable to many of those threatened ESUs, but also seeks to respond to requests from states and others to both provide more guidance on how to protect threatened salmonids and avoid take, and to limit the application of take prohibitions wherever warranted. The regulations describe programs or circumstances that contribute to the conservation of, or are being conducted in a way that adequately limits impacts on, listed salmonids. The regulations do not apply the take prohibitions to those programs and circumstances. Certain of these limits on the take prohibitions entail submission of a plan to NMFS and/or annual or occasional reports by entities wishing to take advantage of these limits, or continue within them.

Affected Public: State, Local, or Tribal Government; business or other for-profit organizations, and farms.

Frequency: On occasion, annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 10, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

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BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041403C]

Proposed Information Collection; Comment Request; Southwest Region Logbook Family of Forms.

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 16, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Alvin Katekaru, 808-973-2935, ext. 2072937, or at Alvin.Katekaru@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Participants in Federally-managed fisheries in the western Pacific are required to provide certain information about their fishing activities. These can include logbooks, notifications, and other requirements, as well as use of a Vessel monitoring system (VMS). The information is needed for the management of the fisheries.